

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVID MICHAEL AARON BAKER

Plaintiff,

v.

BERNARD EDWARD WARNER,
JEFFREY A. UTTECHT

Defendants.

CASE NO. C15-5298 RJB-KLS

ORDER DENYING SECOND
MOTION TO COMPEL

Before the Court is Plaintiff David Baker's second motion to compel. Dkt. 49. His first motion to compel (Dkt. 13) was denied because Mr. Baker did not include a certification that he conferred with counsel for Defendants before he filed his motion. Dkt. 20. This motion is denied for the same reasons. Mr. Baker asks the Court to compel defendants to answer interrogatories and to produce documents at defendants' expense. Dkt. 49. In an affidavit, Mr. Baker states that he sent a letter to defense counsel "attempting to resolve their blatant unwillingness to participate in discovery." *Id.*, p. 1.

While a party may apply to the court for an order compelling discovery, Fed. R. Civ. P. 37 and LCR 37(a)(1) require the movant to first meet and confer with the party failing to make disclosure or discovery in an effort to resolve the dispute without court action. In addition, when filing a motion to compel, the movant must include a certification, in the motion or in a

1 declaration or affidavit, that the movant has in good faith conferred or attempted to confer with
2 party failing to make disclosure or discovery in an effort to resolve the dispute without court
3 action. The certification must list the date, manner, and participants to the conference. If the
4 movant fails to include such a certification, the court may deny the motion without addressing
5 the merits of the dispute. *See* LCR 37(a)(1).

6 Mr. Baker failed to meet his requirements under the local court rule by not speaking with
7 Defendants' counsel by telephone or providing a certification of compliance with this rule.
8 Sending a letter to counsel is not sufficient to comply with the rule. Therefore, his motion may
9 be denied on this basis alone. In addition, counsel for defendants advises that she served
10 supplemental responses and 96 pages of responsive documents to plaintiff following the parties'
11 January 7, 2016 scheduling conference, which was scheduled at the same time plaintiff filed this
12 motion to compel. Dkt. 54-2, Declaration of Katherine Faber.

13 Accordingly, it is **ORDERED**:

14 (1) Plaintiff's motion to compel (Dkt. 49) is **DENIED**. The court will not consider
15 further motions to compel filed without a certification that the movant has first made a good faith
16 effort to confer with defendants' counsel.

17 (2) The Clerk of the Court shall send a copy of this Order to Plaintiff and to counsel
18 for Defendants.

19 **DATED** this 25th day of January, 2016.

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22 Karen L. Strombom
23 United States Magistrate Judge
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